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January 3, 2022

VIA ECF

Hon. Jesse M. Furman
U.S. District Court for the Southern District of New York
40 Centre Street, Room 2202
New York, NY 10007

RE: *Rodriguez-Mendez v. Village Super Market, Inc., et al.*,
S.D.N.Y. Case No. 21-CV-8671(JMF)

Dear Judge Furman:

We represent Defendants Wakefern Food Corp. and Shop-Rite Supermarkets, Inc. (collectively, “Wakefern”) in the above-named action. For the reasons explained below, Wakefern respectfully requests that the Court (1) briefly extend the deadline for conducting an early settlement conference with Magistrate Judge Moses and (2) adjourn the February 8, 2022 initial pretrial conference until after the early settlement conference is conducted.

By Order dated October 25, 2021 [D.E. 20], Your Honor referred this matter to Judge Moses for settlement purposes, and directed the parties to contact Judge Moses no later than one week after Answers were filed to schedule an early settlement conference (Answers were filed on December 31, 2021), which settlement conference was to take place at least two weeks before the February 8, 2022 initial pretrial conference with Your Honor. The Court’s October 25 Order further provided that, if the parties believed additional time was needed for the foregoing settlement process, the parties could request an appropriate extension of these deadlines by way of letter motion to Your Honor.

In December 2021, the parties met and conferred, and agreed in principle to mediate this matter with a private mediator. The parties subsequently engaged in discussions regarding the scope of the mediation, including whether the mediation would be limited to potential wage and hour claims by employees of Defendant Village working at Defendant Village’s approximately 25 supermarkets (Wakefern’s position), or whether the mediation would also include potential wage and hour claims by employees of other member companies of the Wakefern cooperative who are not named as defendants in this matter, working at approximately 350 other supermarkets (Plaintiff’s position). Unfortunately, to date the parties have been unable to agree on the scope of the mediation.

Hon. Jesse M. Furman
January 3, 2022
Page 2

Despite this disagreement regarding the scope of mediation, Wakefern still believes an early resolution of this matter is possible with the assistance of Judge Moses and the good faith efforts of all parties. As such, Wakefern proposes that the Court-ordered settlement conference with Judge Moses proceed, but that the Court adjourn the settlement conference until early March 2022, which will give Wakefern time to complete a pending payroll audit regarding the alleged wage and hour violations affecting Village employees as pled in Plaintiff's Complaint, and then provide Plaintiff's counsel with relevant data from the audit. To facilitate settlement discussions, Wakefern intends to provide Plaintiff's counsel with information about the hours worked and wages paid to all relevant Defendant Village employees.

Wakefern also proposes that the February 8, 2022 initial pretrial conference be adjourned until after the Court-ordered settlement conference. If the parties can resolve this matter with the assistance of Judge Moses, there will be no need for an initial pretrial conference.

In sum, Wakefern respectfully requests that the Court (1) extend the deadline for the scheduling of the settlement conference until early March 2022, and (2) adjourn the February 8, 2022 initial pretrial conference until after the settlement conference is conducted.

Thank you for Your Honor's attention to this matter.

To allow sufficient time for Plaintiff to amend the Complaint and Defendants to complete their payroll audit, the Initial Pretrial Conference scheduled for February 8, 2022, is hereby adjourned to **March 29, 2022 at 3:30 p.m.** The requirement that the parties participate in a settlement conference with Magistrate Judge Moses at least two weeks before the conference remains in place, unless, after meeting and conferring, the parties agree that such a conference would not be helpful, in which case the parties shall file a letter motion closer to the date of the conference seeking leave to do without the conference. The Clerk of Court is directed to terminate ECF Nos. 48 and 50.

SO ORDERED.



January 4, 2022

CC: All counsel of record

Respectfully submitted,

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

By /s Aaron Warshaw

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